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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,396	01/05/2001	Ulrich Kohl	AM9-99-0145	3810
21254	7590	07/21/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			SONG, HOSUK	
			ART UNIT	PAPER NUMBER
			2135	5

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/754,396

Applicant(s)

KOHL ET AL.

Examiner

Hosuk Song

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-23 and 27-36 is/are rejected.
- 7) ☒ Claim(s) 17, 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-12,15,18,20,27-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginter et al(US 5,982,891).

Claim 1: Ginter disclose sending by a client, a request to a recovery server for recovery of a failed database in (col.166,lines 36-57). Ginter disclose determining whether request is legitimate in (col.166,lines 64-67;col.167,lines 1-3,38-44). Ginter disclose based on determining,sending an old local key to the client; decrypting by client the failed database with the old local key to recover the failed database and re-encrypting the recovered database with a new local key in (col.163,lines 58-66;col.214,lines 9-13).

Claim 2: Ginter disclose verifying whether a key database identification has been tampered with in (col.59,lines.45-56).

Claim 3: Ginter disclose database is associated with content which is purchased from a content owner and stored, along with a keyword or codeword, on the database of the client in (col.5,lines 35-44;col.12 lines 31-44).

Claim 4: Ginter disclose client can access the recovery server with the keyword to restore the database in (col.166,lines 42-57).

Claim 5: Ginter disclose a unique key is provided for each piece of content in database and an overall key is provided for the entire database in (col.213,lines 35-45).

Claim 6: Ginter disclose the keys being dependent upon unique characteristics of a hardware component associated with database in (col.215,lines 64-67;col.lines 1-17).

Claim 7: Ginter disclose keys are based on at least one of a processor identification, a particular sector of a system file and random data stored in a non-volatile area of a computer system of client in (fig.9 and col.21,lines 13-17,28-31).

Claims 8,9: Ginter disclose random data includes values placed in a secret location in the system, secret location including any of a system's basic input/output system(BIOS), a nonvolatile RAM(NVRAM) and a hard disk in (fig.9 and col.68,lines 19-36).

Claim 10: Ginter disclose storing a counter in the secret, nonvolatile location and incremented in (col.70,lines 54-67).

Claim 11: Ginter disclose incrementing a counter periodically and stored to the non-volatile location, such that a restored value will be saved with a wrong key in (col.163,lines 1-22,41-44).

Claim 12: Ginter disclose a unique key is produced by using a combination of a local storage and a nonvolatile location of a computer system of client in (col.70,lines 43-67).

Claim 15: Ginter disclose recovery server automatically provides key at a first request thereof in (col.163,lines 28-36).

Claim 18: Ginter disclose data in a non-volatile area of a machine of client is changed every time a count changes, such that local key also changes in (col.163,lines 33-36,44-45).

Claim 20; Ginter disclose counters are kept in records of the database and the local key is used to encrypt the counters in (col.163,lines 39-66).

Claims 27-28: Ginter disclose recovery server determines whether or not to automatically grant the recover operation based on any of whether a normal user upgrade is

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due, and a predetermined time period has elapsed between user recovery of a failing machine in (col.167,lines 1-44).

Claims 29,30-36: Ginter disclose detecting by a recovery server, a request to restore a database in (col.166,lines 36-57). Ginter disclose determining by the recovery server, whether the request is legitimate by verifying an ID of a key database identification included in the request of the user in (col.163,lines 20-27;col.166,lines 64-67;col.167,lines 1-3,38-44). Ginter disclose based on the ID matching a predetermined ID, then applying a recovery decision logic and granting the restore by the recovery server and forwarding a local key that the database was incorporated with to a user in (col.163,lines 1-27). Ginter disclose using the local key calculating a new local key by decrypting the database with the local key, such that the database is re-encrypted with the new local key in (col.163,lines 58-67).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13-14,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al(US 5,982,891) in view of Al-Salqan(US 6,549,626).

Claims 13,14,16: Ginter does not specifically disclose the local key is encrypted such that it is decryptable only by the recovery server. Al-Salqan's patent discloses this limitation in (col.4,lines 62-67;col.5,lines 1-9). It would have been obvious to person of ordinary skill in the art at the time invention was made to have local key encrypted such that it is decryptable only by the recovery server taught in Al-Salqan with data recovery server disclosed in Ginter so that

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key can not be easily accessed by unauthorized users, encrypted key enhances overall security of its system.

3. Claim 19,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al(US 5,982,891).

Claim 19: Ginter disclose random keys to encrypt the data. Ginter does not specifically disclose encrypting the random keys. It would have been obvious to person of ordinary skill in the art to modify the invention of Ginter to encrypt random key because encryption adds another layer of protection against hackers trying to defeat the system.

Claims 21-23: Official notice is taken that header and a body of a request and encrypting portion of its request is well known in the art. One of ordinary skill in the are would have been motivated to encrypt portion of its request with a local key because some portion requires more security than others therefore it is highly desirable to use this scheme in order to enhance data efficiency.

### ***Allowable Subject Matter***

4. Claims 17,24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

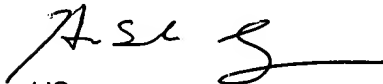
### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 703-305-0042. The examiner can normally be reached on Tue-Fri 6:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 703-305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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